

REMARKS

The Applicants thank the Examiner for the thorough review and consideration of the pending application. The Office Action dated October 14, 2008 has been received and its contents carefully reviewed.

Information Disclosure Statement

The Office Action alleges that the IDS filed September 22, 2005 fails to comply with 37 CFR 1.98(a)(2) for not providing a copy of each cited foreign reference. The Applicants respectfully disagree.

As stated in the September 22, 2005 IDS, the instant application is a National Phase of a PCT application and copies of the references should have been forwarded from the International Search Authority pursuant to a trilateral agreement between the USPTO, JPO and EPO. Nevertheless, for the Examiner's convenience, the Applicants hereby submit additional copies of the references listed on the September 22, 2005 IDS. Accordingly, the Applicants respectfully request that the references cited on the IDS filed September 22, 2005 be considered and a signed copy of the PTO-1449 Form accompany the next communication.

Rejection under 35 U.S.C. §103

The Office Action rejects claims 1-7 and 10-12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,900,325 issued to OKAMURA et al. (hereinafter "OKAMURA") in view of JP 2003-18734 (hereinafter "YAMANAKA") and JP 2000-158588

(hereinafter "IWASA"). The Applicants respectfully traverse the rejection.

The Applicants respectfully submit that neither OKAMURA, YAMANAKA nor IWASA, singularly or in combination, teaches or suggests each and every feature recited in claims 1-7 and 10-12 and therefore cannot render these claims obvious.

More specifically, claim 1 recites an easy open end which includes, among other features, "a polyester resin film having about 5 minutes or shorter half crystallization time and about 0.04 or smaller plane orientation coefficient at thicknesses from about 10 to about 30 μm on at least one side of a steel sheet."

None of the references, singularly or in combination, properly teaches or suggests at least these features.

When evaluating the scope of a claim, the claim must be considered as a whole. The claimed invention may not be dissected into discrete elements and the elements evaluated in isolation. See *M.P.E.P.* 2106.

By dissecting the claimed invention into discrete elements, the Office Action improperly concludes that the elements of "half crystallization time" and "plane orientation coefficient" may be considered separately and in isolation. One of ordinary skill in the art would recognize that these properties, in combination, depend on both the resin film material and the method of manufacturing an easy open end. See,

for example, specification, page 9, lines 7-23. Thus, a plurality of references may not be properly combined to teach the separate claimed elements.

The Office Action admits that OKAMURA fails to expressly teach a polyester resin film having a 0.04 or smaller plane orientation coefficient. *See Office Action, page 3.*

IWASA is relied upon to teach a film having a 0.04 or smaller orientation coefficient. *See Office Action, page 4.* However, IWASA fails to teach or suggest that the film has an "about 5 minutes or shorter half crystallization time," in combination with "having a 0.04 or smaller orientation coefficient," as recited in claim 1.

Further, YAMANAKA fails to address the previously noted shortcomings of OKAMURA and IWASA, namely "a polyester resin film having about 5 minutes or shorter half crystallization time and about 0.04 or smaller plane orientation coefficient."

In fact, YAMANAKA is only relied upon for its purported teaching of a co-polyester can lid with a radius of curvature of 0.1 to 1.0mm. *See Office Action, page 3.*

Therefore, one of ordinary skill in the art would not have been motivated to combine the references, as suggested, for at least the reasons set forth above.

Nevertheless, even if, *assuming arguendo*, one of ordinary skill in the art would have been motivated to combine the references, as suggested, IWASA teaches a biaxially

orientated polyester film having a plane orientation coefficient of ≤ 0.15 before the lamination and shaping process. See paragraphs [0024] and [0048-0049].

One skilled in the art would recognize that the plane orientation coefficient is reduced following the lamination and shaping process taught by IWASA. However, IWASA is silent as to the resulting reduction in the plane orientation coefficient of the film after the easy open end is manufactured. Therefore, IWASA cannot be relied upon to teach or suggest an easy open end having "a polyester resin film having ... about 0.04 or smaller plane orientation coefficient."

Further, the claimed invention is non-obvious because the references, singularly or in combination, fail to contemplate or consider employing a resin having two mutually contradictory characteristics during a method of manufacturing an easy open end by pressing score form using a curved surface die such that a favorable balance between extensibility and strength may be achieved. For example, a plane orientation coefficient set to 0.04 or less when the film is adhered closely to a steel sheet after lamination for the advantage or benefit of reducing sheet thickness while also reducing film breakage and reducing blushing phenomenon that occurs during a retorting treatment.

Accordingly, the teaching of OKAMURA in view of YAMANAKA and IWASA fails to render the claimed invention obvious.

For at least the aforementioned reasons, the Applicants respectfully submit that claim 1 is patentably distinguishable over OKAMURA in view of YAMANAKA and IWASA. Likewise, claims 2-7 and 10-12, which depend from claim 1, are also patentable for at least the same reasons. Accordingly, Applicants respectfully request the 35 U.S.C. §103(a) rejection of claims 1-7 and 10-12 over OKAMURA in view of YAMANAKA and IWASA be withdrawn.

Entry of the above amendments is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

This response is believed to be fully responsive and to put the case in condition for allowance. An early and favorable action on the merits is earnestly requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Elizabeth M. Keaney/
Elizabeth M. Keaney, Reg. 60,437
209 Madison Street
Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

EMK/lrs

APPENDIX:

The Appendix includes the following items:

- Japanese references cited on IDS filed September 22, 2005